

**HOGAN & HARTSON**  
**L.L.P.**

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June 4, 1996

**BY HAND DELIVERY**

Mr. William F. Caton  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

**Re: Notice of Ex Parte Communication in CC Docket 94-54**

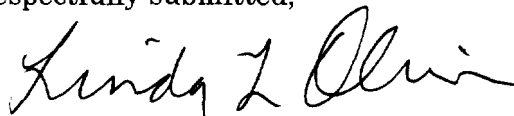
Dear Mr. Caton:

Today, on behalf of National Wireless Resellers Association, David Gusky, Executive Director of National Wireless Resellers Association, Robert B. Kelly of Kelly & Povich, P.C., and I of Hogan and Hartson L.L.P., met with Suzanne Toller, Legal Advisor to Commissioner Rachelle Chong, to discuss the issue of CMRS resale in the referenced proceeding. The points made are set forth in the attached handout.

I have hereby submitted two copies of this notice and the attachment for the referenced proceeding to the Secretary, as required by the Commission's rules. Please return a date-stamped copy of the enclosed (copy provided).

Please contact the undersigned if you have any questions.

Respectfully submitted,



Linda L. Oliver  
Counsel for National Wireless  
Resellers Association

Enclosure

cc: Suzanne Toller

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## **Ex Parte Presentation of the National Wireless Resellers Association**

**June 4, 1996**

**CC Docket No. 94-54**

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Federal Communications Commission  
Office of Secretary

**I. The Communications Act requires all common carriers, including CMRS providers, to permit resale of their services.**

- Under Section 201(b) of the Act, all common carriers must provide service upon reasonable request.
- Under Section 202(a), all common carriers are prohibited from engaging in unreasonable discrimination.
- These provisions mean that CMRS providers, who are common carriers, may not deny service to customers simply because those customers are also carriers.
- The resale requirement is simply a manifestation of the core obligation of common carriers to provide service generally to the public on request.

**II. Strong public policy reasons support a requirement that all common carriers permit resale of their services.**

- Resale encourages facilities investment and enables carriers to build out their own networks.
- Resale enables an unlimited number of service providers to compete in the provision of full-service packages -- which doubtless will include wireless services.
- Without broad resale, only vertically integrated service providers that own networks in every market segment and every geographic location can provide consumers a package of all telecommunications services.
- Resellers add value to the underlying service, through such mechanisms as customized billing, innovative packaging and pricing, and superior customer service.
- Resale reduces barriers to market entry and facilitates participation by smaller businesses.
- Resale creates competitive pressures on retail prices.

**III. In a competitive market with a large number of network-based service providers, such as paging, it is less likely that carriers will attempt to deny service to resellers.**

- In such markets the resale requirement serves as a merely prophylactic rule.
- In markets in which carriers do have incentives to deny service to resellers, a resale requirement protects competitors who must depend on reselling the service of other network owners.
- In a dynamic telecommunications industry characterized by rapid change and by potential and actual vertical and horizontal integration, determinations of the need for a resale requirement on a market-by-market basis are difficult to make and would be subject to constant reevaluation.
- It would be difficult to conclude, even for a market such as paging, that resellers will always have competitive choices of an underlying carrier in every market and for all time.
- A prophylactic rule requiring resale enables resellers to obtain service from a carrier without resorting to formal regulatory complaint processes.